

*These notes refer to the Taxation (International and Other Provisions)
Act 2010 (c.8) which received Royal Assent on 18 March 2010*

TAXATION (INTERNATIONAL AND OTHER PROVISIONS) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 6: UK representatives of non-UK residents

Part 1: New Chapters 2B and 2C of Part 14 of ITA 2007

Chapter 2C: Income tax obligations and liabilities imposed on UK representatives

Overview

1234. This new Chapter of Part 14 of ITA sets out the obligations and liabilities of a UK representative of a non-UK resident carrying on a trade, profession or vocation through a branch or agency in the United Kingdom in relation to the assessment, collection and recovery of income tax on amounts in respect of which the branch or agency is treated as the UK representative of the non-UK resident under Chapter 2B.

Section 835T: Introduction to Chapter

1235. This section introduces the Chapter. It is based on paragraph 1(1) and (2) of Schedule 23 to FA 1995.

1236. *Subsection (1)* refers to the Chapter applying to “the enactments relating to income tax” and *subsection (3)* provides that “enactments” includes subordinate legislation. This is intended to have the same effect as the references in the source legislation to the Tax Acts and subordinate legislation under the Tax Acts, but is focussed more clearly on the income tax context of the Chapter.

Section 835U: Obligations and liabilities of UK representative

1237. This section treats the obligations and liabilities of the non-UK resident in respect of the income of the trade, profession or vocation carried on through the branch or agency in the United Kingdom as also being the obligations and liabilities of the UK representative. It is based on paragraphs 1(1) and 2 of Schedule 23 to FA 1995.

Section 835V: Exceptions: notices and information

1238. This section provides:

- for the circumstances in which an obligation or liability of a non-UK resident does not attach to the non-UK resident’s UK representative (*subsections (1) and (2)*);
- that a UK representative which is an independent agent is only required to do what is practicable for the representative to do in discharging the representative’s obligations to provide information (*subsections (3) to (5)*);

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- that, if the UK representative has only provided so much information as it is practicable for the representative to provide, the non-UK resident is not discharged from the non-UK resident's obligations to provide the whole of the information (*subsection (6)*); and
- for the circumstances in which a non-UK resident is not bound by the mistakes of the UK representative (*subsection (7)*).

It is based on paragraphs 3 and 4 of Schedule 23 to FA 1995.

1239. In the definition of "information" in *subsection (8)*, the words "to the Commissioners for Her Majesty's Revenue and Customs or to any officer of Revenue and Customs" have been substituted for the words "to the Board or any officer of the Board" in the source legislation. This gives effect to section 50(1) and (2) of CRCA which require references to the terms in the source legislation to be taken as references to the substituted terms.

Section 835W: Exceptions: criminal offences and penalties etc

1240. This section sets out the circumstances in which the UK representative is not liable to be proceeded against for a criminal offence. It is based on paragraph 5 of Schedule 23 to FA 1995.

Section 835X: Indemnities

1241. This section sets out the circumstances in which an "independent agent" is entitled to be indemnified by the non-UK resident and to retain sums otherwise payable or accountable by the UK representative to the non-UK resident to meet the UK representative's liabilities under the Chapter. It is based on paragraph 6 of Schedule 23 to FA 1995.

Section 835Y: Meaning of "independent agent"

1242. This section defines "independent agent". It is based on paragraph 7 of Schedule 23 to FA 1995.